



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 27, 1996

Mr. Ron M. Pigott
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR96-1771

Dear Mr. Pigott:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 101027.

The Texas Department of Public Safety (the "department") received a request for a certain investigative file. The requestor maintains that he has a special right of access to the requested information pursuant to section 552.023 of the Government Code. You inform us that the department has released to the requestor a copy of the polygraph examination report on the test given to him and a copy of the audio tape of his oral interview with Ranger Matt Andrews. The department asserts that the remaining requested information is excepted from required public disclosure based on sections 552.101 and 552.108.

Section 552.023 provides an individual with a limited special right of access to information about that individual. However, the individual's right of access to private information about that individual under section 552.023 does not override exceptions to disclosure in the Open Records Act or confidentiality law protecting some interest other than that individual's privacy. We believe that the exceptions you have raised protect interests beyond the requestor's privacy. Section 552.108 protects the department's law enforcement interests. The provision you raise in conjunction with section 552.101, section 5.08 of the Medical Practice Act, V.T.C.S. article 4495b, protects the privacy of the patient about whom they concern. We therefore do not believe that section 552.023 provides the requestor a special right of access to the information at issue.

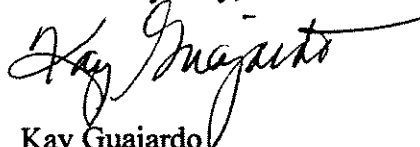
Section 552.108 of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime,” and “[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution. Gov’t Code § 552.108; *see Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). Information normally found on the front page of an offense report is generally considered public. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976).

You state that the requested file relates to the detection, investigation and prosecution of possible criminal conduct of a police officer. We have reviewed the file and conclude that except for the type of information that normally appears on the front page of an offense report, section 552.108 of the Government Code excepts the requested records from required public disclosure.

The file contains a witness’s medical records. Section 5.08 of the Medical Practice Act, V.T.C.S. article 4495b, governs the release of this information. *See* Open Records Decision No. 565 (1990).

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 101027

Enclosures: Submitted documents

cc: Mr. Jess C Aguilar, Sr.
1128 Crescent Drive
Andrews, Texas 79714-3805
(w/o enclosures)